



2026:AHC-LKO:19849-DB

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 654 of 2026

Allauddin Shah

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko. And
3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Shashi Kant Tripathi, Rishabh Kamal Pandey, Sanidhya Shukla
Counsel for Respondent(s)	:	G.A.

Court No. - 11

**HON'BLE ABDUL MOIN, J.
HON'BLE MRS. BABITA RANI, J.**

1. Heard Sri Shashi Kant Tripathi learned counsel assisted by Sri Rishabh Kamal Pandey, learned counsel for the petitioner and learned AGA appearing for respondents No. 1 to 3.
2. Notice for respondent No.4 has also been accepted by learned AGA.
3. Instant petition is an example of the high handedness on the part of the authorities wherein the petitioner belonging to the bottom rung of the society, has been compelled to approach this Court in raising a challenge to the FIR, which has been lodged against him despite findings to the contrary by the competent authority.
4. Under challenge is the FIR dated 25.11.2024 vide Case Crime No.0146 of 2024 under Section 316(5) B.N.S., 2023 Police Station Gaura Chauraha, District Balrampur as well as consequential proceeding against the petitioner.
5. There is consensus at the bar that the facts of the case have already been summed up by this Court in the order dated 04.02.2026.
6. For the sake of convenience, the order dated 04.02.2026 is reproduced below:-

"Heard.

Contention of learned counsel for the petitioner is that the impugned First Information Report has been lodged under Section 316 (5) of B.N.S, 2023 alleging that the petitioner was in occupation of certain piece of land belonging to the Gaon Sabha which is recorded as "Water" and the petitioner is said to have carried out fishing over the said piece of land and has failed to pay amount that he has earned on account of said fishing.

Contention is that the Gaon Sabha had also initiated proceedings under Section 67 of the Uttar Pradesh Revenue Code, 2006 (In short "Code, 2006") alleging illegal encroachment by the petitioner over the said piece of land but the competent authority i.e the Tehsildar (Judicial) vide order dated 01.01.2026, a copy of which is annexure 6 to the writ petition has categorically recorded that the petitioner is neither in possession over the said piece of land nor was in possession of the said land and thus it is alleged that the impugned First Information Report has been lodged in a malicious manner.

Learned AGA prays for and is granted three weeks time to file a short counter affidavit duly indicating as to whether the impugned First Information Report pertains to the same piece of land for which the order dated 01.01.2026 has been given by the competent authority under Section 67 of the Code, 2006.

Considering the short question of law as involved in the instant petition as such, list this case in the week commencing 23.02.2026 as fresh."

7. From perusal of the aforesaid order and the pleadings on record, it emerges that the impugned First Information Report has been lodged against the petitioner on the basis of having occupied a certain piece of land belonging to the Gaon Sabha which is recorded as "Water" and the petitioner allegedly having carried out fishing over the said piece of land, having enriched himself and having failed to pay the amount that he earned on account of said fishing and thus having caused loss to the Gram Sabha.

8. The competent revenue authority, namely, Tehsildar (Judicial) vide order dated 01.01.2026, a copy of which is Annexure-6 to the writ petition, has categorically recorded that the petitioner is neither in possession over the said piece of land nor was ever in possession of the said land, and thus, it prima facie emerged that the impugned FIR has been lodged in a malicious manner.

9. Considering the aforesaid, this Court had required the learned AGA to file a short counter affidavit indicating as to whether the impugned FIR pertained to the same piece of land for which the order dated 01.01.2026 had

been passed by the competent authority indicating that no encroachment has ever been done by the petitioner or was done by the petitioner per which he could have earned some amount towards fishing while encroaching the said piece of land.

10. A short counter affidavit has been filed on behalf of the respondents per which in paragraph 10, it has specifically been indicated that in the order of the competent authority dated 01.01.2026, the piece of land as indicated is the same for which the impugned FIR has been lodged. Paragraph-10 further indicates that **subsequent to lodging of the impugned FIR a demarcation has been carried out and the government land has been demarcated.**

11. Thus, from perusal of the First Information Report and the averments made in the short counter affidavit, it clearly emerges that the authorities have lodged the impugned FIR for the same piece of land for which the competent revenue authority vide his order dated 01.01.2026 has categorically stated that neither any encroachment was ever done by the petitioner nor is he in possession of the said piece of land and consequently it emerges that the FIR which has been lodged by the respondents against the petitioner, has been lodged in a patently malicious and false manner.

12. Considering the aforesaid, the writ petition deserves to be allowed and the FIR merits to be quashed on this ground alone.

13. The matter may have ended at this i.e. with quashing of the FIR but for the fact that in paragraphs 14 and 15 of the writ petition it has been indicated that subsequent to lodging of the impugned FIR No.146 of 2024, the petitioner had been arrested by the police and sent to jail on 25.11.2024 (wrongly typed as 25.11.2025 in paragraph 14 of the writ petition). Subsequently, the petitioner had got bail vide order dated 20.12.2024 in Crl. Misc. Bail Application No.13332 of 2024. Copy of the bail order has been filed as Annexure-3 to the writ petition.

14. Thus, it is clearly apparent that on account of malicious and false FIR which has been lodged by the authorities against the petitioner, the petitioner had been arrested and remain incarcerated in jail for a period of 25 days and that too for no fault of his. Thus, the petitioner lost his personal liberty for a period of 25 days, despite the records indicating that at no stretch of time was the petitioner in occupation over the said piece of land, for which the

impugned FIR has been lodged. Thus, the writ petition deserves to be allowed with exemplary cost.

15. In this regard, it would also be apt to refer to the judgment of the Hon'ble Apex Court in the case of **Subrata Roy Sahara Vs. Union of India and ors. reported in (2014) 8 SCC 470**, wherein the Apex Court has observed as under:-

"....One needs to keep in mind that in the process of litigation, there is an innocent sufferer on the other side of every irresponsible and senseless claim. He suffers long-drawn anxious periods of nervousness and restlessness, whilst the litigation is pending without any fault on his part. He pays for the litigation from out of his savings (or out of his borrowings) worrying that the other side may trick him into defeat for no fault of his. He spends invaluable time briefing counsel and preparing them for his claim. Time which he should have spent at work, or with his family, is lost, for no fault of his. Should a litigant not be compensated for what he has lost for no fault?... "

16. Keeping in view the aforesaid discussions, the writ petition is **allowed**. The impugned First Information Report No.0146 dated 25.11.2024 lodged at Police Station Gaura Chauraha, District Balrampur is quashed alongwith all consequential proceedings.

17. The petitioner would be entitled for an amount of **Rs.50,000/- as cost**. The cost shall be paid to the petitioner at the first instance by the respondent No.1 **within 30 days** of the receipt of the certified copy of this order.

18. However, it is open for respondent No.1 to recover the cost from the officers concerned who were responsible for lodging of the impugned FIR against the petitioner.

March 18, 2026
Reena/-

(Mrs. Babita Rani,J.) (Abdul Moin,J.)